

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0455P

Income Tax

Fiscal Years ending March 31, 1993, 1994, & 1995

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ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the penalty assessed.

STATEMENT OF FACTS

The taxpayer protests the negligence penalty assessed on an income audit performed for the period April 1, 1992 through March 31, 1995.

The taxpayer purchases bearings and velocity joints and then sells and distributes these items to customers throughout the United States. The taxpayer maintains an inventory in Columbus, Indiana and a sales and engineering office in Indianapolis, Indiana.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer protests the negligence penalty for the taxpayer's failure to properly report Indiana source sales to Indiana. The taxpayer reported Indiana source sales to Michigan as the taxpayer's accounting office was located in Michigan. The taxpayer argues the penalty should be waived as the taxpayer acted in good faith and the error was inadvertent.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness,

thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the taxpayer’s penalty protest is denied.

FINDING

The taxpayer’s penalty protest is denied.